



U.S. Department of Justice
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May 18, 2021

Via E-Mail and ECF

The Honorable Brian R. Martinotti
United States Magistrate Judge
Martin Luther King, Jr. Federal
Building and Courthouse
50 Walnut Street
Newark, NJ 07102

Re: United States v. Jose Torres
Crim. No. 20-418 (BRM)

Dear Judge Martinotti:

The United States respectfully submits this letter as an update to the Court regarding the entry of a scheduling order in this matter and a request for a status conference. As ordered by Your Honor during the May 11, 2021 hearing, defense counsel and the Government conferred regarding the entry of a scheduling order on May 14, 2021.

Defense counsel has informed us that he needs three months to submit pretrial motions and has proposed that he file those motions by August 15, 2021. However, he has also informed me that the Defendant remains unwilling to agree to or seek a Speedy Trial ("STA") continuance while counsel is preparing those motions. Counsel has informed me that, without his client's consent, he is unwilling to agree to or request a continuance.

Pursuant to this Court's Standing Order 2021-04, the STA deadline is currently tolled through June 1, 2021. Time needed to prepare pretrial motions

is not automatically excluded under the STA. *Bloate v. United States*, 559 U.S. 196, 203-11 (2010). Thus, unless this Court enters a continuance order pursuant to 18 U.S.C. § 3161(h)(7)(A), the STA deadline will expire on August 11 (70 days after June 1), before the defense motions would be filed and the STA clock tolled pursuant to 18 U.S.C. § 3161(h)(1)(D).

The Government requests a prompt status conference to resolve this impasse and to set a schedule for motions and trial. This Court canceled a status conference previously scheduled for May 24, 2021. The Government respectfully requests the Court reschedule the status conference for that date. If defense counsel represents on the record at that conference that he is unwilling to request a continuance but maintains that he needs three months to prepare pretrial motions, the Government may request a continuance if the Court makes a finding that “the ends of justice served by” granting a continuance “outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A).

Thank you for your consideration of this matter.

Very truly yours,

RACHAEL A. HONIG
Acting United States Attorney

Emma Spiro

By: Emma Spiro
Shawn Barnes
Assistant U.S. Attorneys

cc: David Schafer, Esq.